



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,758	09/24/2007	Meinhard Falch	FALCH ET AL - 1 PCT	4147
25889	7590	01/03/2011		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER BERTHEAUD, PETER JOHN	
			ART UNIT	PAPER NUMBER
			3746	
			MAIL DATE	DELIVERY MODE
			01/03/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,758	Applicant(s) FALCH ET AL.	
	Examiner PETER J. BERTHEAUD	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 21-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species I: Figures 1-2 disclose a cylinder head fastening assembly according to a first embodiment.

Species II: Figures 3-4 disclose a cylinder head fastening assembly according to a second embodiment.

Species III: Figures 5-6 disclose a cylinder head fastening assembly according to a third embodiment.

Species IV: Figure 4 discloses a cylinder head fastening assembly according to a fourth embodiment.

Species V: Figure 5 discloses a cylinder head fastening assembly according to a fifth embodiment.

Species VI: Figure 6 discloses a cylinder head fastening assembly according to a sixth embodiment.

Species VII: Figure 14 discloses a cylinder head fastening assembly according to a seventh embodiment.

Species VIII: Figure 15 discloses a cylinder head fastening assembly according to an eight embodiment.

Species IX: Figure 16 discloses a cylinder head fastening assembly according to a ninth embodiment.

Species X: Figure 17 discloses a cylinder head fastening assembly according to a tenth embodiment.

Species XI: Figure 18 discloses a cylinder head fastening assembly according to an eleventh embodiment.

Species XII: Figure 19 discloses a cylinder head fastening assembly according to a twelfth embodiment.

Species XIII: Figure 20 discloses a cylinder head fastening assembly according to a thirteenth embodiment.

Species XIV: Figure 21 discloses a cylinder head fastening assembly according to a fourteenth embodiment.

Species XV: Figure 22 discloses a cylinder head fastening assembly according to a fifteenth embodiment.

2. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

3. This application also contains claims directed to more than one species of the generic invention with respect to the cylinder housing and cylinder head assembly.

Art Unit: 3746

These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species A: Figures 10 and 12 disclose a cylinder head and cylinder housing assembly according to a first embodiment.

Species B: Figures 11 and 13 disclose a cylinder head and cylinder housing assembly according to a second embodiment.

Species C: Figure 23 discloses a cylinder head and cylinder housing assembly according to a third embodiment.

4. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

5. Therefore, Applicant must elect a species from **each** of the above groups.

6. The claims are deemed to correspond to the species listed above in the following manner:

Species I: Claims 21-24

Species II: Claims 21-23 and 25

Species III: Claims 21-23 and 26

Species IV: Claims 21, 23, 27 and 29

Species V: Claims 21, 23, 24, 27 and 29

Species VI: Claims 21 and 28

Species VII: Claims 21, 23 and 29

Species VIII: None

Species IX: Claims 21, 23 and 29

Species X: Claims 21 and 23

Species XI: Claims 21, 23 and 28

Species XII: Claims 21, 23, 28, and 29

Species XIII: None

Species XIV: Claims 21, 23 and 29

Species XV: Claims 21, 23 and 29

The following claim(s) are generic: None.

7. In reference to the second species election:

If Species A is elected: Claims 31, 32 and 36 can be added to any of the above sets except species VIII and XIII.

If Species B is elected: Claims 31 and 36 can be added to any of the above sets except species VIII and XIII.

If Species C is elected: Claims 31 and 36 can be added to any of the above sets except species VIII and XIII.

8. It should be noted that claim 30 is dependent on claim 29, which depends from 21. Claim 30 is drawn to Species XIII, but claims 21 and 29 are not generic to Species XIII. Thus, this claim is not in condition for examination. Claims 33 and 34, while drawn to Species C, are dependent on claim 30, and therefore are also not in condition for

Art Unit: 3746

examination. Claim 35 is generic to Species A, B and C, but is also dependent on claim 30.

Therefore, unless an amendment is made, claims 30, 33, 34 and 35 are not in condition for examination.

9. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The species are of completely different designs. The various pump species share noticeably different structure and functionality. These designs are clearly not obvious variants of one another and are therefore independent inventions.

10. **Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are

Art Unit: 3746

added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER J. BERTHEAUD whose telephone number is (571)272-3476. The examiner can normally be reached on M-F 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art
Unit 3746

PJB
/Peter J Bertheaud/
Examiner, Art Unit 3746